

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20257Application 28997 of Meridian Minerals Company *(over)*5613 DTC Parkway, Englewood, CO 80111filed on April 9, 1987, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed StreamLittlejohns Creek

2. Location of point of diversion:

	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridan
North 1,300 feet and East 400 feet from SW corner of Section 20	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	20	2N	12E	MD

County of Calaveras

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridan	Acres
Mining	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	13	2N	11E	MD	
	E $\frac{1}{2}$ of NE $\frac{1}{4}$	24	2N	11E	MD	
Industrial	W $\frac{1}{2}$	20	2N	12E	MD	
	All	19	2N	12E	MD	
Dust Control	W $\frac{1}{2}$	29	2N	12E	MD	
	W $\frac{1}{2}$ of E $\frac{1}{2}$	29	2N	12E	MD	
	N $\frac{1}{2}$	30	2N	12E	MD	
	N $\frac{1}{2}$ of SE $\frac{1}{4}$	30	2N	12E	MD	
	NE $\frac{1}{4}$	32	2N	12E	MD	
	E $\frac{1}{2}$ of NW $\frac{1}{4}$	32	2N	12E	MD	

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 2,000 acre-feet to be diverted from October 1 to April 30 of each year. The maximum amount diverted under this permit shall not exceed 2,000 acre-feet per year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)
8. Construction work shall be completed by December 31, 1991. (0000008)
9. Complete application of the water to the authorized use shall be made by December 31, 1992. (0000009)
10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
- The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)
13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. Permittee shall comply with the following provisions which are derived from the agreement between permittee and Oakdale Irrigation District (OID) executed on April 28, 1988 and filed with the State Water Resources Control Board:

After OID has constructed its storage reservoirs on Littlejohns Creek pursuant to its Application 28380, then in any year that OID's prior entitlements to storage on Littlejohns Creek under any permit issued pursuant to Application 28380, have been reduced, determined as of May 31 of any year, solely because of retention of water by permittee in its reservoir pursuant to Application 28997, and provided that OID's storage facilities have not previously spilled during that water year, then permittee shall be obligated to replace the amount of such reduction, upon request of OID made on or prior to June 15 following (unless OID is thereafter able to fill its Littlejohns storage reservoir under its right to divert from the Stanislaus River under Application 28380), by any one of the following methods, selected by permittee, to be accomplished by August 15 of that year:

- a. If the water within permittee's reservoir can be released to the stream and is of such quality that it can be utilized by OID for irrigation, permittee shall release the water at a reasonable rate of discharge as requested by OID after commencement of OID's irrigation season.
- b. By delivery of the amount of water so reduced, at a point upstream from OID's uppermost storage facility on Littlejohn's Creek, at any time after such notice but prior to August 15, from purchase from New Melones Reservoir and delivery via OID's conveyance facilities, or from any other source, but within the limits of available capacity in OID's diversion/conveyance facilities.
- c. Paying to OID the amount of money with which OID could have purchased an equivalent amount of water that year from any available source; provided, however, the OID shall not be required to purchase water available to it from New Melones Reservoir or to accept as equivalent water under paragraph (b) water provided from New Melones Reservoir, if such water when received by OID includes regulatory requirements, reporting requirements or cost requirements which in the sole discretion of OID are deemed to be unacceptable.
- d. By paying OID's costs of pumping an equivalent amount of water from its deep wells, which would not have operated that year except for such reductions, as follows: The average cost of operating those deep wells during that year would be determined by an independent engineer selected by mutual agreement of the parties, and that cost, which would include power and operation and maintenance, and a reasonable amortization of the capital cost of those facilities in that year would be paid by permittee.
- e. In the event that permittee is obligated to replace water retained by it under this paragraph, but the projections of OID for its water supply for that year as of August 1 project adequate water for the OID service areas as determined in the sole discretion of OID, then Meridian shall have the option of deferring its replacement of such water until the next following irrigation season (completing the same by August 15 of the next irrigation season), but the replacement obligation for that retention shall be extinguished if OID's storage facilities under Application 28380 shall spill or fill by May 31 of such irrigation season. As used herein the phrase "spill" as applied to Littlejohns Creek Reservoir shall mean either the regulated release of water down Littlejohns Creek for any use other than irrigation within OID's service area, or the unregulated release of water down Littlejohns Creek, after OID's storage reservoir shall have been filled to the spillway level, and which releases are made through the spillway facilities.

Inclusion in this permit of certain provisions of the referenced agreement shall not be construed as disapproval of other provisions of the agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit. (0000024)

15. Permittee shall comply with the following provisions which are derived from the agreement between permittee and Roswell N. Flower executed on March 15, 1988 and filed with the State Water Resources Control Board:

Whenever the prior storage rights under License 7135 (Application 13897 of Estate of Cayolyn E. Flower) have not been satisfied by March 1 of any year, permittee shall release from its Clover Creek Reservoir (License 9933 on Application 17712) either sufficient water to fill the Flower Reservoir or the actual amount of water collected to storage in permittee's Clover Creek Reservoir prior to March 1, whichever is less. If additional water is required to satisfy License 7135, permittee shall supply water from wells and/or other available suitable surface sources not to exceed 10% of the amount actually diverted to storage under License 7135 during the authorized collection season of November 1 to March 1, including releases by permittee from Clover Creek Reservoir under License 9933, provided that any releases under License 7135 during the collection season shall be deducted from the delivery obligation. (0000024)

16. Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage reading on or about October 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

Permittee shall allow R. N. Flower, or a designated representative, reasonable access to the reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoir. (0070047)
(0100047)

17. Storage of water shall not be commenced until the Department of Water Resources has approved plans and specifications for the dam. (0130049)

18. Prior to beginning construction on any facilities involving the diversions authorized under this permit, permittee shall conduct a fish and wildlife inventory and assessment specifically to include the area to be affected by such construction activities and to also include those lands directly adjacent to waste management units #1 and #2 (both of which comprise the tailing disposal reservoir). The inventory and assessment shall be accomplished by independent fish and wildlife biologists. A report shall be prepared subject to approval by State Water Resources Control Board staff, prior to the initiation of the above-stated construction activities. (0390500)

19. In order to mitigate for the removal of Erion reservoir, permittee shall make a one-for-one replacement of the environmental features described in the fish and wildlife inventory and assessment required under this permit. All mitigation measures shall require approval by the Division of Water Rights.

Permittee shall prepare a mitigation plan and present this plan to the Division of Water Rights 90 days from the approval of the Fish and Wildlife inventory and assessment.

Permittee shall commence implementation of the mitigation plan within 120 days of approval of the mitigation plan by the Division of Water Rights. Progress reports shall be submitted to the State Water Resources Control Board Environmental Review Unit every 6 months until completion of mitigation. (0400500)

20. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted from Littlejohns Creek, Underwood Creek, and the Unnamed Stream tributary to Littlejohns Creek until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that the measures to protect fish and wildlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facilities are the responsibility of the permittee. Permittee shall include with the annual progress report copies of the annual reevaluation and update of the 1603 agreement, as required by California Department of Fish and Game. (0000063)

21. Permittee shall install devices, satisfactory to the Division of Water Rights, which are capable of continuously measuring streamflows above and below all planned diversions. Said measuring devices shall be properly maintained throughout the life of the project by the permittee and be made available to interested parties. Location of measuring devices shall require approval by the Division of Water Rights. These devices shall be in place and operational November 1, 1988.

(0060062)

22. Permittee shall implement the cultural resource mitigation outlined in the "Treatment Plan for the Mitigation of Adverse Impacts to Cultural Resources within the Royal Mountain King Mine, Calaveras County, California" prepared in January 1987 by Archeological Services Inc., including the cultural resource stipulations by Bureau of Land Management (BLM) in a letter dated June 23, 1988. Any further modifications to this treatment plan shall be reviewed and agreed upon by the State Water Resources Control Board (SWRCB), BLM and State Office of Historic Preservation (SHPO). Permittee's archeological consultant shall remain in contact with the SWRCB throughout the duration of the mitigation. A progress report shall be submitted to the Division of Water Rights every four weeks during the field work. Copies of all draft and final reports shall be submitted to the SWRCB for review and approval. If any previously unidentified cultural resources are located, all activities in the immediate vicinity of the find shall be halted until the discovery can be evaluated by a qualified archeologist/historian. The SWRCB and BLM and SHPO shall be appraised of the situation within 48 hours. Project operations shall not resume until approved by the SWRCB, BLM and SHPO.

(0400500)

23. Prior to implementing the reclamation plan for the project, permittee shall consult with a qualified archeologist in order to ensure that the scalping of topsoil and revegetation activities do not inadvertently further impact any cultural resources. Permittee shall submit a letter report to the SWRCB verifying that there are no additional impacts or suggesting a redesign of the reclamation plan if impacts cannot be avoided under the January 1987 Mining Use and Reclamation Plan Application prepared by D. E. Deam Company. The Chief of the Division of Water Rights must be in agreement with the findings in the letter report prior to the start of any reclamation activities.

(0380500)

24. If any areas not previously covered in the archeological survey are needed for project development, then the permittee shall complete an on-the-ground survey. A supplemental report identifying and evaluating both prehistoric and historic remains shall be submitted to the SWRCB, BLM, and SHPO for review. Permittee and the agencies shall agree on any necessary mitigation measures prior to commencement of any construction activities.

(0380500)

25. The State Water Resources Control Board reserves jurisdiction in the public interest to modify the terms and conditions of this permit, including imposition of requirements to alter project facilities or operations and to modify streamflows in the event of unforeseen adverse impacts to fish, wildlife or the environment. Board action will be taken only after notice to interested parties and opportunity for hearing.

(000M001)

26. No water shall be used under this permit until the permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, Central Valley Region, pursuant to Water Code Section 13260, and the Regional Board or State Water Resources Control Board has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Board or State Board are being met. No discharges of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Board or the State Board. A discharge to ground water without issuance of a waste discharge requirement may be allowed if after filing the report pursuant to Section 13260:

- (1) the Regional Board issues a waiver pursuant to Section 13269, or
- (2) the Regional Board fails to act within 120 days of the filing of the report.

Application 28997

Permit 20257

No permittee shall be required to file a report of waste discharge pursuant to Section 13260 of the Water Code for percolation to the groundwater of water resulting from the irrigation of crops.

(0290101)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

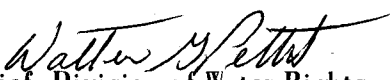
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: AUGUST 25 1988

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights